IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.43104-M of 2006

DATE OF DECISION: NOVEMBER 9, 2006

Gagandeep Singh alias Goggi

...PETITIONER

*VERSUS*

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. D.K.Kaushal, Advocate,
for the petitioner.

Mr.N.S.Gill, AAG, Punjab.

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Petitioner Gagandeep Singh alias Goggi has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.133 dated 26.8.2005 registered under Sections 302/34 IPC at Police Station City, Kotkapura.

I have heard the counsel for the parties.

In this case, on 22.2.2005 one Vijay Kumar, who was alcoholic addict, was found dead. No complaint was lodged by any family members as they took the said death as natural. An inquest report under Section 174 Cr.P.C. was prepared. After six months of the said occurrence, on the complaint made by the father of the deceased, the aforesaid FIR was registered. In the complaint, it was stated that on 21.2.2005, one Pardeep Kumar alias Mintu, Gagandeep Singh alias Gogi, Vinod Kumar alias Banti and Vijay Kumar assembled at Giani Zail Singh Market. They took tea at Basant Tea Stall and then at 2.00 p.m. Vijay Kumar deceased went away

with Gagandeep Singh alias Gogi and Vinod Kumar alias Banti on motor-cycle. All these three persons were drug addicts. They purchased ½ bottle of liquor. They had also taken liquor. Later on, they also consumed liquor at Dhaba of Balachaur and also ate meal. Vijay and Gagandeep Singh alias Gogi said they were under influence of liquor so they wanted to sleep at that place. Then Vinod Kumar alias Banti and Vijay slept at Motor, but Gagandeep Singh alias Gogi went to his house. It has been further alleged that at 2-1/2-3.00 PM when Banti saw that Vijay did not speak, then Banti again got asleep. In the morning at 9.30 a.m., Banti got up and went to the house of Gagandeep Singh alias Gogi and said that Vijay Kumar was snoring and not speaking. Then both Gogi and Banti came at the shop of Dr.Kulwant Singh alias Kala and called the parents of Vijay Kumar. The doctor found Vijay Kumar dead. It has been further stated that after the post mortem, inquest report under Section 174 Cr.P.C. was prepared. It has been also stated that subsequently, during the investigation by the complainant it was found that Vijay Kumar was murdered by Gagandeep Singh alias Gogi and Vinod Kumar alias Banti.

As per the post mortem report, the deceased died on account of organo phosphorous poison. It is the case of the prosecution that as per the last seen evidence, deceased Vijay Kumar was last seen in the company of the accused by Jand Singh son of Amrik Singh and Chhinda Singh son of Banta Singh. The case of the prosecution is based upon circumstantial evidence.

Counsel for the petitioner contends that as far as the petitioner is concerned, as per the prosecution version, he went to his house and thereafter deceased Vijay Kumar and Vinod Kumar alias Banti took liquor

and they slept at the Motor. So, when the deceased was found dead, only Vinod Kumar alias Banti was present there. Counsel further contends that the case of the petitioner is different from Vinod Kumar alias Banti, who remained with the deceased till morning. Therefore, as far as the petitioner is concerned, there is no strong circumstantial evidence against him. No motive has been alleged by the prosecution. Counsel for the petitioner contends that the petitioner is in custody since 22.12.2005. Still two prosecution witnesses are to be examined and the trial is not going to conclude soon.

Counsel for the respondent-State opposed the prayer of the petitioner on the ground that the petition for regular bail filed by accused Vinod Kumar alias Banti has been dismissed as withdrawn by this Court vide order dated 30.5.2006 passed by this Court in Crl.Misc.No.32144-M of 2006. However, Pardeep Kumar alias Mintu, who was also named as an accused, has already been granted regular bail by this Court vide order dated February 2, 2006 passed in Crl.Misc.No.61368-M of 2005.

After hearing the counsel for the parties and in view of the above facts, without expressing any opinion on the merits of the case, I deem it appropriate to grant regular bail to the petitioner, and he is accordingly ordered to be released on bail to the satisfaction of the trial Court.

November 9, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE